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RANCHI, WEDNESDAY, 17th AUGUST, 2022

HIGH COURT OF JHARKHAND, RANCHI

NOTIFICATION
17th August, 2022

No. 11/2022/R&S--In exercise of the powers conferred by Article 227(2) (b) of the Constitution of India as well as in light of the order dated 22.04.2021 of Hon'ble the Supreme Court of India in the matter of Civil Appeal Nos. 1659-60 of 2021 with Civil Appeal Nos. 1661-62 of 2021 with Civil Appeal Nos. 1663-1664 of 2021, the High Court of Jharkhand, Ranchi has been pleased to make the following amendments in the "Civil Court Rules of the High Court of Jharkhand":-

Chapter-IIA
(General Procedure in Suits)

Rule 80A. In suits relating to delivery of possession, the court must examine the parties to the suit under Order X of CPC in relation to third party interest and further exercise the power under Order XI Rule 14 of CPC asking parties to disclose and produce documents, upon oath, which are in possession of the parties including declaration pertaining to third party interest in such properties and also to furnish the parentage and address of the third party having interest.

Rule 80B. After examination of parties under Order X of CPC or production of documents under Order XI of CPC or receipt of commission report, the Court must add all necessary or proper parties to the suit, whose details including address is available in record, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit by giving opportunity to the parties to amend their pleadings.

Rule 80C. In a suit for payment of money, before settlement of issues, the defendant may be required to disclose his assets on oath, to the extent that he is being made liable in a suit. The Court may further, at any stage, in appropriate cases during the pendency of suit, using powers under Section 151 of CPC, demand security to ensure satisfaction of any decree.

Rule 80D. In a suit related to property, following steps shall be taken by the Subordinate Courts to avoid multiple proceedings on the suit property:-

- (i) Issue public notice specifying the suit property and inviting claims, if any, that any person who is in possession of the suit property or claims possession of the suit property or has any right, title or interest in the said property specifically stating that if the objections are not raised at this stage, no party shall be allowed to raise any objection in respect of any claim he/she may have subsequently.
- (ii) Affix such notice on the said property.
- (iii) Issue such notice specifying suit number etc. and the Court in which it is pending including details of the suit property and have the same published on the official website of the Court.

Rule 99A. The Court must, before passing the decree, pertaining to delivery of possession of a property ensure that the decree is unambiguous so as to not only contain clear description of the property but also having regard to the status of the property.

Rule 99B. When a preliminary decree is passed in a partition suit, the proceeding should be continued by fixing dates for further proceedings till the final decree is passed.

Rule 113A. The Executing Court must dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay for six months and the same may again be extended, if necessary, only by recording reasons for a period of six months.

Rule 115A. In a money suit, the Court must invariably resort to Order XXI Rule 11(1) of CPC, ensuring immediate execution of decree for payment of money on oral application.

Rule 115B. The Court exercising jurisdiction under Section 47 of CPC or under Order XXI of CPC, must not issue notice on an application of third-party claiming rights in a mechanical manner. Further, the Court should refrain from entertaining any such application(s) that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant during the trial of the suit.

Rule 115C. The Court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.

Rule 115D. The Court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to Sub-rule (2) of Rule 98 of Order XXI of CPC as well as grant compensatory costs in accordance with Section 35A of CPC.

Rule 115E. Under section 60 of CPC the term “...in name of the judgment- debtor or by another person in trust for him or on his behalf” should be read liberally to incorporate any other person from whom he may have the ability to derive share, profit or property.

Rule 115F. In appropriate cases, where the possession is not in dispute and not a question of fact for adjudication before the Court, the Court may appoint Commissioner to assess the accurate description and status of the property.

Rule 136A. The Executing Court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the officer in-charge of the concerned Police Station to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the Court, the same must be dealt stringently in accordance with law.

Rule 158A. Under Order XL Rule 1 of CPC, any Civil Court can appoint a receiver to monitor the status of the property in question as *custodia legis* for proper adjudication of the matter. Aforesaid amendments shall take effect from the date of its publication in the e-Gazette.

By order of the Court,

Mohammad Shakir,
Registrar General
